

SAN JOSE APPEALS HEARING BOARD MINUTES
THURSDAY, DECEMBER 13, 2007
6:30 P.M., COUNCIL CHAMBERS

1. The meeting of the San Jose Appeals Hearing Board convened this date at 6:30 p.m., Council Chambers, City Hall, with the following members in attendance: Chairperson Cynthia Cobb, Commissioners Sonja Etienne, Jose Hernandez, Troy Overton, Karen Parsons, Susan Ruscigno and Clark Williams.

Staff Present: Evet Loewen, Senior Deputy City Attorney
Michael Hannon, Deputy Director Code Enforcement
Peggy Rollis, Administrator of Code Enforcement
Eusebio Espitia, Code Enforcement
Garry McLeod, Code Enforcement
Mollie McLeod, Code Enforcement
Cindy Anacleto, Code Enforcement
Vincent Tovar, Code Enforcement
Sharon Yamzon, Code Enforcement
Mike Ryder, Finance Department
Betty Mitre, Code Enforcement

2. **Opening Remarks and Approval of Minutes**

Chairperson Cynthia Cobb read a statement to the public requesting that speakers identify themselves and state their address. There was a motion by Commissioner Parsons, seconded by Commissioner Etienne, to approve the minutes of November 8, 2007.

Deputy Director of Code Enforcement, Michael Hannon, introduced Elizabeth Cobb, (Chair Cynthia Cobb's mother) and Councilmember Pete Constant. Mr. Hannon presented Chair Cynthia Cobb with a plaque recognizing and thanking her for her outstanding years of service from January 2001 to December 2007 on the Appeals Hearing Board.

Councilmember Pete Constant on behalf of the mayor and the entire City Council presented Chair Cynthia Cobb with a plaque thanking her for her years of work, dedication and volunteerism on the Appeals Hearing Board.

3. **Request for Excused Absence**

4. **Deferred or Continued Items**

5. Public Hearing

a. 332 Willow Street (434-05-015) Administrative Remedy

(Garry McLeod, Inspector / Francisco Serrano & Rosa Hernandez, Property Owners)

Inspector Garry McLeod testified and presented photos of the subject property and gave a brief summary of the inspections he had made at the subject property. The photos were of the unpermitted converted basement and inoperable vehicles on the property.

Property owner Rosa Hernandez was present. Ms. Hernandez stated that she was not well informed because she just received the paperwork regarding the property, however, she will do what needs to be done to correct the problem.

Commissioner Williams asked Inspector McLeod how long it would take the property owner to comply. In response, Inspector McLeod stated an estimate of six months.

Deputy Director Mike Hannon stated that no records were found to verify that the conversion was permitted by the City of San Jose. Mr. Hannon stated that if the property owner wanted to bring the area into a habitable condition, she has the right to contact the Planning Department to determine legal nonconforming status. Mr. Hannon stated that it would take four months for compliance.

Commissioner Overton asked the property owner if she receives mail at the subject address. Ms. Hernandez stated that she does receive mail at the subject address. Inspector McLeod stated that the Notice of Hearing was delivered to the property and forwarded to the property owner by her son.

Commissioner Overton asked the property owner if it is her testimony that she never received the Compliance Order. In response, the property owner stated that she did not receive the Compliance Order. Ms. Hernandez stated that she did receive the Compliance Order dated October 19, 2007 at the Willow Street address. Ms. Hernandez stated that her son had given her the mail.

Miguel Hernandez, son of property owner Rosa Hernandez, testified that he received two letters; one letter in October and the letter recently about the compliance. Mr. Hernandez stated that he was not aware that there was going to be an inspection.

There was a motion by Commissioner Williams, seconded by Commissioner Parsons, to order as follows:

To support the City's recommendation and that the administrative penalties will be held in abeyance pending compliance with the Board's Order until April 13, 2008. The Order to Correct date is changed from February 17, 2008 to April 13, 2008. Administrative Penalties of \$2920.00 are to be held in abeyance until April 13, 2008.

AYES: Cobb, Etienne, Hernandez, Overton, Parsons, Ruscigno, Williams
NAYS:
ABSENT:

**b. 7291 Taranga Court (406-17-022) Summary Abatement
(Cindy Anacleto, Inspector / Maria E. Trujillo, Property Owner)**

Inspector Cindy Anacleto testified that the subject property was condemned due to the imminently dangerous condition determined by The Santa Clara County Department of Environmental Health Specialist Ruben Williams. The property was utilized for the manufacture of methamphetamine. The products from the property tested positive for methamphetamine. Inspector Anacleto stated that the subject property was condemned and the door, windows and gates were secured to eliminate unauthorized access.

The property owner was not present.

There was a motion by Commissioner Parsons, seconded by Commissioner Etienne, to order as follows:

To uphold the abatement actions taken by the City of San Jose's Code Enforcement Division.

AYES: Cobb, Etienne, Hernandez, Overton, Parsons, Ruscigno, Williams
NAYS:
ABSENT:

**c. 415 S. Willard Avenue (277-18-032) Summary Abatement
(Pierre Schutz, Inspector / Andrea & Nedjelko Kristovich, Property Owners)**

Inspector Pierre Schutz testified and presented photos of the subject property. The photos showed a collapsed ceiling and photos of large holes in the ceiling of the apartment damaged by water. Inspector Schutz stated that he had sent a compliance order to the property owner ordering him to repair the ceiling and to contact the

inspector when the repairs are completed. Inspector Schutz also stated that it is the property owner's responsibility to relocate the tenants.

The property owner was not present.

There was a motion by Commissioner Hernandez, seconded by Commissioner Etienne, to order as follows:

To uphold the abatement actions taken by the City of San Jose's Code Enforcement Division.

AYES: Cobb, Etienne, Hernandez, Overton, Parsons, Ruscigno, Williams

NAYS:

ABSENT:

**d. 1375 Orlando Drive (486-12-113) Summary Abatement
(Sharon Yamzon, Inspector / The Bank of New York, Property Owner)**

Inspector Sharon Yamzon testified and stated for the record that the agenda lists the incorrect address of 1735 Orlando Drive; the correct address should read 1375 Orlando Drive. Inspector Yamzon stated that the subject property is vacant and in foreclosure. Inspector Yamzon stated that the property did not have a front, rear or garage door. Inspector Yamzon contacted Tucker Construction when she did not hear back from Mr. Bennet who is the contact person for the Bank of New York.

The property owner was not present.

There was a motion by Commissioner Parsons, seconded by Commissioner Ruscigno, to order as follows:

To uphold the abatement actions taken by the City of San Jose's Code Enforcement Division.

AYES: Cobb, Etienne, Hernandez, Overton, Parsons, Ruscigno, Williams

NAYS:

ABSENT:

e. 2173 Radio Avenue (439-07-032) REQUEST TO AMEND RESOLUTION 07-33

Inspector Garry McLeod clarified the request to amend Section E1 of Resolution 07-33 to specifically state that the property owner, Alan D. Field, must reduce the gate and fence to the front fence line to less than seven (7) feet.

The property owner was not present.

There was a motion by Commissioner Parsons, seconded by Commissioner Etienne, to order as follows:

To approve a resolution to amend Resolution 07-33, Section E1 to specifically state that the property owner, Alan D. Field, must reduce the gate and fence to the front fence line to less than seven (7) feet. .

AYES: Cobb, Etienne, Hernandez, Overton, Parsons, Ruscigno, Williams

NAYS:

ABSENT:

**f. 1883 St. James Street (481-10-025) Summary Abatement
(Vincent Tovar, Inspector / Blanca Moreno, Property Owner)**

Code Enforcement Inspector Vincent Tovar stated for the record that the condemnation was due to an unsecured vacant home and not due to structural deficiencies as listed on the agenda. Code Enforcement Inspector Vincent Tovar testified and present photos of the subject property. Inspector Tovar stated that the house had unsecured windows and doors and gang graffiti on the subject property and found it necessary to secure the residence. Inspector Tovar stated that his recent inspection confirmed that there is new graffiti at the front of the subject property. Inspector Tovar had made arrangement for the graffiti to be removed.

The property owner was not present.

There was a motion by Commissioner Parsons, seconded by Commissioner Etienne, to order as follows:

To uphold the abatement actions by the City of San Jose's Code Enforcement Division.

AYES: Cobb, Etienne, Hernandez, Overton, Parsons, Ruscigno, Williams

NAYS:

ABSENT:

g. Recycle Plus Liens - The Finance Department requested adoption of a resolution confirming the Director of Finance's report of delinquent Recycle Plus bills for the accounts in a delinquent status as of November 27, 2007, including applicable recording fees, and directs the Director of Finance to place a Special Assessment against the property secured by a lien to be recorded with the Santa Clara County Recorder's Office.

APN #434-12-032. The property owner was present. Chair Cynthia Cobb explained that the property owner is responsible for the bill even if a judge states that the tenant is supposed to pay bill; the owner is still liable.

The property owner asked if the fine could be waived. City Attorney Evet Loewen stated that the Board does not have authority to make adjustments.

There was a motion by Commissioner Williams, seconded by Commissioner Parsons, to order as follows:

To deny the appeal for property #434-12-032.

AYES: Cobb, Etienne, Hernandez, Overton, Parsons, Ruscigno, Williams

NAYS:

ABSENT:

APN #472-28-045. Property owner was present. Mr. Blanc stated that he pays his bill online and that there must be a problem in the system because he is not receiving his bill all the time and suggested that the Finance Department send out reminders regarding the billing due date.

Chair Cynthia Cobb suggested the property owner provide the Finance Department with statements showing that the bill was paid through the bank and to verify that the City has the correct mailing address.

Commissioner Overton asked Mr. Ryder from the Finance Department to check the records to see if the bill has been paid by the property owner.

In response, Mr. Ryder stated that the October bill has not been paid. Mr. Ryder stated that the Finance Department would be willing to take the property off this lien cycle to determine the cause of the problem and find a solution.

There was a motion by Commissioner Williams, seconded by Commissioner Parsons, to order as follows:

To hold APN #472-28-045 in abeyance until the next meeting.

AYES: Cobb, Etienne, Hernandez, Overton, Parsons, Ruscigno and Williams
NAYS:
ABSENT:

There was a motion by Commissioner Ruscigno, seconded by Commissioner Etienne, to order as follows:

To uphold the Finance Departments request to a place lien on the remaining delinquent accounts with the exception of APN #472-28-045.

AYES: Cobb, Etienne, Hernandez, Overton, Parsons, Ruscigno and Williams
NAYS:
ABSENT:

6. DISCUSSION

There was a discussion regarding the proposed Appeals Hearing Board Retreat. All commissioners were in agreement that the retreat be scheduled for February 14, 2008, at 11 a.m. Code Enforcement Administrator Peggy Rollis informed the commissioners that they may e-mail Board Secretary Eusebio Espitia if they have a particular subject to be discussed.

7. ELECTION OF CHAIR AND VICE-CHAIR FOR TWO-YEAR TERMS COMMENCING JANUARY 1, 2008 THROUGH DECEMBER 31, 2009.

Commissioner Overton made a motion to nominated Vice Chair Clark Williams as Chair for the Appeals Hearing Board. Commissioner Sonja Etienne seconded the motion.

Chair Cynthia Cobb made a motion to nominate Karen Parsons as Vice Chair for the Appeals Hearing Board. Commissioner Sonja Etienne seconded the motion.

8. ORAL COMMUNICATIONS FROM THE PUBLIC

9. ADJOURNMENT

There was a motion by Commissioner Ruscigno, seconded by Commissioner Etienne to adjourn the meeting. Chair Cynthia Cobb adjourned the meeting at 8:09 p.m. The next regular meeting will be held on Thursday, January 24, 2008 at 6:30 p.m., at the City Hall Council Chambers.